IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA, ex rel., MIKE HUNTER, ATTORNEY GENERAL OF OKLAHOMA,

Plaintiff,

vs.

PURDUE PHARMA L.P., et al,

Defendants.

Case No. CJ-2017-816

"Redacted Copy" of

DEFENDANTS' EMERGENCY MOTION TO COMPEL PRESCRIPTION DRUG MONITORING PROGRAM DATA

Defendants Purdue Pharma L.P., Purdue Pharma Inc., The Purdue Frederick Company Inc., Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica Inc., Watson Laboratories, Inc., Actavis LLC, and Actavis Pharma, Inc., respectfully move this Court on an emergent basis for an Order compelling the State of Oklahoma to produce de-identified data from the State's Prescription Drug Monitoring Program ("PDMP") and its predecessor, the Oklahoma Schedule II Abuse Reduction ("OSTAR") system. These data are highly relevant because they track opioid prescriptions written and filled in Oklahoma and identify Oklahoma doctors that over-prescribed medications, pill-mills that dispensed unusually high amounts of controlled substances, and patients who doctor shopped to try to obtain opioid prescriptions. These data therefore concern fundamental issues in the case, including, but not limited to, the lack of causation as to the Defendants (*i.e.*, the conduct of independent actors responsible for any opioid prescriptions that the State contends caused it harm), the State's long-standing knowledge about the number of opioid prescriptions written in Oklahoma, and its own failure to take steps to reduce the number

of Oklahoma opioid prescriptions it now complains about. This basic fact discovery is long overdue. Given the State's request for more than [redacted], the production of this information is especially necessary to allow Defendants to properly defend themselves against the State's claims and to prepare their expert disclosures, which are currently due in less than three weeks. Emergency relief, including an extension of Defendants' expert disclosure deadline, is therefore warranted.

The Defendants have repeatedly requested this information from the State,[1] and after meeting and conferring on the subject, the State declared that "there a statutory prohibition on producing [PDMP/OSTAR] data in civil litigation, but also withholding this data from production is consistent with the Court's prior orders related to sensitive investigatory information and private patient data." *See* Dec. 7, 2018 email, T. Duck to Counsel (attached as Ex. 1). The State is wrong. The data can be produced in an anonymized and HIPAA-compliant format that preserves the confidentiality of individuals and does not violate any Oklahoma statute or this Court's orders regarding protection of private patient data.[2] The Court should therefore compel the State to

[1] *See, e.g.*, Purdue Pharma L.P.'s First Set of RFPs from Plaintiff, No. 3 ("All Documents and Communications relating to any system or service used by You or anyone acting on Your behalf to monitor prescribing activities or potentially suspicious prescribing of the Relevant Medications."); Janssen Pharmaceuticals, Inc.'s First Set of RFPs from Plaintiff, No. 4 ("All Documents and Communications concerning statistics relating to addiction, abuse, or overdose relating to the Relevant Medications in the State of Oklahoma, including but not limited to Documents and Communications relating to any evaluation, assessment, analysis, modeling, or review of any financial or economic impact associated with addiction, abuse, or overdose relating to the Relevant Medications."); Cephalon Inc.'s First Set of RFPs from Plaintiff, No. 7 ("All Communications and Documents relating to the use of the Oklahoma Prescription Monitoring Program to monitor, evaluate, assess, or otherwise examine the prescribing and use of the Relevant Medications in the State of Oklahoma, including all Documents and Communications concerning the identification of Persons, Patients, or Health Care Providers engaged in prohibited, suspicious, or unlawful transactions.").

[2] Defendants continue to object to and reserve their right to challenge the Court's prior orders on this issue, including with respect to the production of data with the identities of doctors and

produce the data immediately and also extend Defendants' deadline for their expert disclosures by 60 days from the Court's certification of the State's full compliance.[3]

I. BACKGROUND

Oklahoma first recognized the need for a tracking program to help curb the numbers of lawful, FDA-approved medications diverted to illegal street use in the 1980's.[4] The State's first program, the Oklahoma Schedule II Abuse Reduction ("OSTAR") system, was limited to tracking prescriptions of Schedule II drugs and went into effect January 1, 1991.[5] The OSTAR system was a database that included the National Drug Code number for each Schedule II prescribed medication, the prescriber's Drug Enforcement Agency ("DEA") number, the patient's name, address, and identification number (like a driver's license ID), the quantity dispensed, the date it was filled, and the dispensing pharmacy's DEA and National Council for Prescription Drug Programs identification numbers.[6] The program was designed to identify doctors that over-prescribed medications as well as "pill-mills" that dispensed unusually high amounts of controlled substances. It also was intended to track patients who visited several doctors seeking multiple prescriptions for the same ailment—a practice known as "doctor shopping."

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patients, yet reiterate that these data are capable of being produced in anonymized form to alleviate any confidentiality concerns and to allow for tracking across the data.

[3] As explained in Defendants' Emergency Motion to Compel and for Extension of Time for Defendants' Expert Disclosures, filed concurrently herewith and incorporated herein by reference, the State's many discovery deficiencies have prejudiced Defendants' ability to meaningfully mount a defense in this case and have infringed on Defendants' due process rights.

[4] Dodd, Elaine, *OSTAR—Oklahoma Schedule II Abuse Reduction: An Electronic Point of Sale Diversion Control System*, National Institute on Drug Abuse Research Monograph 131: Impact of Prescription Drug Diversion Control Systems on Medical Practice and Patient Care, U.S. Department of Health and Human Services p.151 (1993), *available at* https://archives.drugabuse.gov/sites/default/files/monograph131.pdf.

[5] *Id.*

[6] Jessica McGuire Dep. at 49:17-50:2 (excerpt attached as Ex. 2).

The OSTAR program was later expanded to provide for tracking of Schedule II-V drugs, and evolved into Oklahoma's present-day PDMP. In its present format, the PDMP collects largely identical information, including:

- Patient's name;
- Patient's address;
- Patient's date of birth;
- Patient's identification number;
- National Drug Code number of the substance dispensed;
- Date of the dispensation;
- Quantity of the substance dispensed;
- Prescriber's United States Drug Enforcement Agency registration number;
- Dispenser's registration number; and
- Other information as required by administrative rule.

Okla. Stat. Ann. tit. 63, § 2-309C.

The OSTAR/PDMP databases therefore are the best source of the prescribers, recipients, types of medications, and amounts of medications prescribed and dispensed in Oklahoma from 1990 to the present. By statute, the Oklahoma PDMP data is "confidential" and is not open to the public. Okla. Stat. Ann. tit. 63, § 2-309D(A). Nevertheless, the data collected by the PDMP system remains available to a broad assortment of law enforcement and medical professionals in Oklahoma, including representatives of:

- The Oklahoma State Bureau of Narcotics and Dangerous Drugs Control;
- The United States Drug Enforcement Agency;
- Board of Podiatric Medical Examiners;
- Board of Dentistry;
- State Board of Pharmacy;
- State Board of Medical Licensure and Supervision;
- State Board of Osteopathic Examiners;
- State Board of Veterinary Medical Examiners;
- Oklahoma Health Care Authority;
- Department of Mental Health and Substance Abuse Services;
- Board of Examiners in Optometry;
- Board of Nursing;
- Office of the Chief Medical Examiner;
- State Board of Health;

- Multicounty grand juries;
- The Department of Veterans Affairs; and
- The United States Military.

Okla. Stat. Ann. tit. 63, § 2-309D(A). In addition, the statute permits district attorneys and the Attorney General to access the database "in furtherance of criminal, civil or administrative investigations or prosecutions." Okla. Stat. Ann. tit. 63, § 2-309D(B). The statute further requires the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control ("OBNDDC") to provide monthly lists to the directors of state medical boards of the top twenty prescribers of controlled dangerous substances within their respective fields, and requires those medical boards to notify the OBNDDC of any prescribing violations they discover. Okla. Stat. Ann. tit. 63, § 2-309D(I). The OBNDDC is further required to maintain information on all fatal and nonfatal overdoses, including the recipients and prescribers of any controlled substances involved. Okla. Stat. Ann. tit. 63, § 2-309D(J-L).

In addition to the above important and valuable data points, the OBNDDC collects a wealth of information that is required to be collected and sent to the U.S. Centers for Disease Control ("CDC"). The OBNDDC's reports to the CDC include de-identified information that is relevant to the claims being advanced by the State in this case, including:

- Percent of opioid naïve patients receiving extended release opioid prescriptions;
- Percent of opioid prescriptions that overlap with benzodiazepine prescriptions;
- Percent of patients receiving opioid prescriptions over a certain dosage;
- Number of prescribers registered with the PDMP;
- Number of pharmacies registered with the PDMP; and
- Number of alerts triggered within the PDMP for improper or potentially dangerous prescriptions.

These figures are compiled based on PDMP data, required to be reported to the CDC, and are already anonymized. Because they contain elements of PDMP data, the State is improperly withholding these reports.

All of this vital information is available and accessible to the Attorney General's office in this case, as well as to numerous of the State's experts who are employed by the agencies with access to the PDMP data. The information is ***not*** available to the Defendants, however, because the State will not produce it.[7] Indeed, the PDMP data is considered so important by the State in this matter that its expert, Chris Ruhm, Ph.D., has allocated over [redacted] for the State to "employ data professionals" and "prepare PMP data for analysis, analyze PMP data, develop special reports and analyses, and link data sets such as health outcome data and claims data." Further, another expert for the State, John Duncan, Ph.D., the former Chief Agent at the OBNDDC, has put the PDMP data at issue. His disclosure states that he intends to testify that "[a]t all relevant times, OBN was vigilant in its efforts to curb drug diversion and abuse" and that "OBN watchfully tracked the prescribing of Schedule II narcotics." While the PDMP data are independently relevant to the State's claims and Defendants' defenses, they are certainly relevant in light of Dr. Duncan's expert disclosure. Defendants should be permitted to test the veracity of his opinion with the PDMP data.[8]

That the PDMP data is readily accessible is also not in question. For example, the State's corporate witness designated to testify as to the specifics of the PDMP (Jessica McGuire) noted

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[7] For example, the State's expert witness, John Duncan, Chief Agent of the OBNDDC, notes in his resume that he analyzes the agency's statistical drug data as part of his job responsibilities, was appointed to the Oklahoma State Epidemiological Workgroup, and participated in applications for hundreds of thousands of dollars of federal grants to support the PDMP. The State's expert witness Jessica Hawkins works for the Department of Mental Health and Substance Abuse Services and has made numerous presentations on the Oklahoma PDMP and its data. In addition to his access to the PDMP as a medical practitioner, the State's witness Samuel Martin is also licensed with both the Drug Enforcement Agency and the OBNDCC. And the State's expert witness Claire Nguyen is an epidemiologist with the Oklahoma State Department of Health where she actively incorporates PDMP data into her work.

[8] If the Court would like to view copies of the expert disclosures for Drs. Ruhm and Duncan, Defendants would be happy to provide them.

that the State uses an outside vendor, APPRISS Health, to run its PDMP. McGuire Dep. at 64:23-65:1 (excerpt attached as Ex. 2). APPRISS Health specializes in being able to create database outputs that are customizable and *HIPAA-compliant*. As noted on its website:

> ***You can rely on your PDMP for full compliance with state and HIPAA regulations for data entry and reporting. Easy-to-use analytic tools are included for deeper reporting and analysis.*** There are no headaches if state reporting requirements change because your PDMP platform is flexible and scalable. Your PDMP solution accommodates interstate data sharing making it easy to track controlled substance use across state lines.[9]

And as Ms. McGuire explained, the same data and adjustable reports can be run for the years prior to the retention of the APPRISS Health vendor. McGuire Dep. at 116:13-20 (excerpt attached as Ex. 2).

II. ARGUMENT

The State controls access to the entirety of the prescription drug information that is central to both causation and damages claims in this matter, and should produce that information to the Defendants so both sides can properly examine the data. In response to Defendants' requests that de-identified information from the PDMP be produced—data that the State's experts have regular access to and use in the course of their daily employment—the State has claimed that the data is protected and cannot be produced. While it is correct that the data is confidential, this Court has established protocols to govern the review of confidential data in this case, including a confidentiality protective order that allows for the secure production of confidential materials. Further, the data can be de-identified in such a manner that specific prescribers and recipients of prescription medications can be tracked across the data without being specifically identified—a

[9] https://apprisshealth.com/who-we-help/state-governments, last accessed 12/31/18 (emphasis added).

technique that the State's own PDMP vendor uses to make data reporting from the system HIPAA-compliant.

The relevance of the data is also not in question. The prescribing and dispensing habits of Oklahoma health care professionals goes to the heart of the State's claims. And the PDMP data exists so that it can be used to track those practices. As the State's corporate representative who provided testimony related to the steps Oklahoma has taken to abate the opioid crisis noted, the purpose of the PDMP legislation was "to allow that [PDMP] information to be used for analysis to look at public health trends, to develop reports." Hawkins Oct. 25, 2018 Dep. at 92:24-93:1 (excerpt attached as Ex. 3). This is exactly why the Defendants repeatedly request such data in their Requests for Production. *See, supra*, note 1. The data clearly shows, without the need for speculation, exactly how, when, and where opioid medications were prescribed and dispensed in Oklahoma.

Oklahoma case law on the production of such relevant but confidential materials is clear: a statutory prohibition on disclosure of information is not absolute and must be tempered according to the needs of the case. *State ex rel. Suttle v. Dist. Court of Jackson Cty.*, 1990 OK CR 31, 795 P.2d 523. In *Suttle*, the State petitioned the appellate court to prevent the disclosure of records that were protected by statute as confidential from being released to attorneys for a criminal defendant. The records, like the PDMP data, were protected from disclosure by statute. The *Suttle* court recognized the statutory protection given to the records, but noted that their defense value could nevertheless require them to be produced in the interest of justice. The appellate court therefore ordered the trial court to review the statutorily-protected materials *in camera* and, if their value was of sufficient importance to the case, "turn over copies of same to both defense counsel and the district attorney." *Id.* at 525.

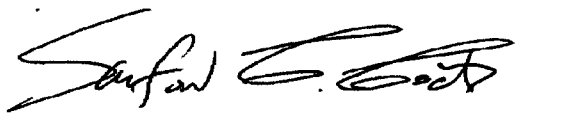
The *Suttle* case involved incredibly sensitive records relating to child abuse that were highly restricted by the Oklahoma legislature. Here, Defendants seek materials that, under Okla. Stat. Ann. tit. 63, § 2-309D(B), are broadly available to many State agencies and outside researchers, like the CDC, and which the State can anonymize to prevent the identification of individuals by name. And in light of the principle that civil defendants are entitled to full and equal information in discovery in order to formulate a defense, that statute's express grant of access to PDMP and OSTAR data to State attorneys in furtherance of civil proceedings implies reciprocal access to counterparties in those proceedings—particularly, here, where the State is seeking in excess of [redacted].

Put simply, the data are highly relevant because they consist of records of the use of prescription opioids in the State of Oklahoma—an issue crucial to both sides in this matter. There is no reason this data should be available to the State and its experts, while hidden from Defendants. Both sides should have equal access to the data and in the same format. At a minimum, the data should be produced in an anonymized format that allows Defendants to track specific individuals and prescriptions across the data, for instance, by assigning each individual a unique identifying code.

III. CONCLUSION

For the foregoing reasons, the Court should grant Defendants' emergency motion to compel and order the State to immediately produce de-identified data from the PDMP and OSTAR databases in the same format that the State has access to. In addition, the Court should extend Defendants' deadline for their expert disclosures by 60 days from the date that the Court certifies the State's compliance.

Date: January 7, 2019 Respectfully submitted,



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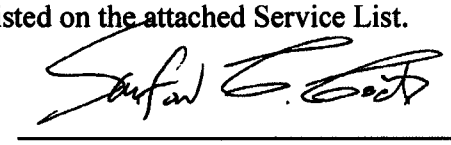
CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January 2019, I caused a true and correct copy of the following:

DEFENDANTS' EMERGENCY MOTION TO COMPEL PRESCRIPTION DRUG MONITORING PROGRAM DATA

to be served via email upon the counsel of record listed on the attached Service List.



CERTIFICATE OF COMPLIANCE WITH 12 OKLA. STAT. § 3237(A)(2)

I hereby certify that the parties have attempted in good faith to confer in an effort to secure the information that is the subject of this motion without court action. The parties were unable to reach a resolution.

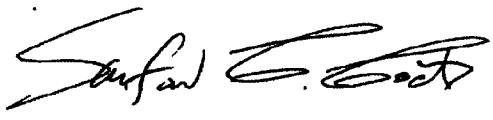


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EXHIBIT 1

From: Trey Duck <tduck@nixlaw.com>
Sent: Friday, December 7, 2018 6:06 PM
To: EXT sbrody@omm.com
Cc: Roberts, David K. (DC); EXT Joshua.burns@crowedunlevy.com; LaFata, Paul; Tam, Jonathan; EXT Harvey Bartle IV; Larry Ottaway; Amy Fischer (amyfischer@oklahomacounsel.com); 'John Sparks'; Drew Pate; Brad Beckworth; EXT Mark Fiore; Nathan Hall; rwhitten@whittenburragelaw.com; mburrage@whittenburragelaw.com; Jeff Angelovich; Ross Leonoudakis; Winn Cutler; Lisa Baldwin; Brittany Kellogg; Amanda Thompson
Subject: Re: State v. Purdue: Claims Data

Steve, here is an update. We will supplement this as more information is available.

The State has already produced a database from OCME containing information on opioid-related deaths (OCME-00000812) and associated pfd/reports (OCME-00000813 - OCME-00074173).

The State intends to producing the following data in a de-identified cross-walked format in the next two weeks:

- TEDS data;
- OONQUES data;
- MMIS Medical claims data related to the individuals contained in the MMIS Pharmacy database already produced;

The State intends to produce the following data by the end of year:

- HealthChoice (deidentified)
- Medicaid prior authorization decisions data (de-identified and cross-walked)
- The fatal unintentional poisoning data
- Existing data dictionaries, field definition tables, and user guides for any data produced

The State does not intend to produce the PDMP or OSTAR data. Not only is there a statutory prohibition on producing this data in civil litigation, but also withholding this data from production is consistent with the Court's prior orders related to sensitive investigatory information and private patient data.

The State does not agree to an extension of Defendants expert deadlines.

Thanks,

Trey Duck

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tduck@nixlaw.com

From: Trey Duck
Date: Wednesday, December 5, 2018 at 10:18 PM
To: "Brody, Steve"
Cc: "Roberts, David K. (DC)" , "joshua.burns@crowedunlevy.com" , "LaFata, Paul" , "Tam, Jonathan" , "harvey.bartle@morganlewis.com" , Larry Ottaway , "Amy Fischer (amyfischer@oklahomacounsel.com)" , 'John Sparks' , Drew Pate , Brad Beckworth , "mark.fiore@morganlewis.com" , Nathan Hall , Reggie Whitten , Mike Burrage , Jeff Angelovich
Subject: Re: State v. Purdue: Claims Data

Actually Steve, I specifically asked that you not send a self-serving email but rather cut to the chase and send a bullet point list of exactly what you need so I can try to address the issues you raised. But you sent a self-serving email anyway. Maybe that works elsewhere. But I'm not going to respond to your revisionist history.

After our call this morning, I began the process of resolving these issues. That should be what matters to you. As I said today, I will provide a more complete update at the end of week.

Trey Duck

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From: "Brody, Steve"
Date: Wednesday, December 5, 2018 at 7:42 PM
To: Trey Duck
Cc: "Roberts, David K. (DC)" , "joshua.burns@crowedunlevy.com" , "LaFata, Paul" , "Tam, Jonathan" , "harvey.bartle@morganlewis.com" , Larry Ottaway , "Amy Fischer (amyfischer@oklahomacounsel.com)" , 'John Sparks' , Drew Pate , Brad Beckworth , "mark.fiore@morganlewis.com"
Subject: State v. Purdue: Claims Data

Trey,

As you requested, I'm writing to summarize the issues we discussed and questions that defendants raised during our teleconference today, and to specify the follow-up questions we have. As I mentioned this morning, we initially posed many of these questions to plaintiff six months ago but have yet to receive answers, despite reiterating those questions in numerous follow-up letters, emails, and a prior meet and confer session. Moreover, two days before our call, we requested that plaintiff be prepared to identify the specific claims data it has produced so far and the reasons why additional data has not yet been produced. Unfortunately, after today's call, we are still waiting for answers.

As I explained this morning, we are seeking all databases responsive to defendants' discovery requests. We have previously identified certain responsive databases in correspondence stretching back six months, including MMIS pharmacy claims data, MMIS medical claims data, OOnQues/ODMHSAS data, Health Choice data, OME data, TEDS data, and OSTAR and PDMP data. Although we have identified these data sets, it is plaintiff's burden to identify all responsive materials, as we do not have the ability to know whether there are other sources of responsive data that should be produced in this litigation.

Of the data we have specifically identified, we have not yet received MMIS medical claims data, Health Choice data, OME data, or OSTAR/PDMP data. You represented on the call this morning that you thought the State's prior production of MMIS pharmacy claims, OOnQues and TEDS data is complete, but agreed to verify that for us.

Even with respect to data that has been produced, I explained that the current productions do not allow for any tracking of individuals or providers across databases given the different formats of information in the de-identified fields in each database. To be clear, the way in which prescriber and patient identities were de-indentified is entirely insufficient to meet the discovery needs of this case and is contrary to what plaintiff has represented it would produce—representations made both to defendants and in plaintiff's pleadings.

Finally, I reminded you that we still lack data dictionaries, field definition tables, database manuals and similar materials needed to understand the relevant databases. We first inquired about this information months ago, but we have not received a response.

As I emphasized, all this information is crucial to our experts' analyses, and it is needed promptly given the approaching deadlines in this case. The delay receiving even the most basic information, let alone the data requested, continues to prejudice defendants.

You indicated that Health Choice data, medical examiner data, and MMIS medical claims data would be produced, but were unable to commit to a time by which they would be produced. You were not able to specify plaintiff's position on whether plaintiff would agree to an extension of the expert disclosure deadlines based on plaintiff's delay in producing data needed for our experts, but said that you would check with team members. Nor were you able to provide a time by which the State would commit to producing data dictionaries, field definition tables, or similar information regarding the databases at issue.

Regarding the de-identifying process, you stated for the first time that these databases are not perfect and that 100% matching of information between databases was not possible. You were otherwise unable to speak substantively to the questions we have posed since May. I therefore requested that you arrange for a knowledgeable technical person to discuss these issues with us. I made clear that I or another knowledgeable person would be available to discuss these issues promptly.

For these reasons, we request that you promptly provide us the following information:

1. A list of all the databases in plaintiff's possession, custody, or control that plaintiff believes may contain information responsive to Defendants' discovery requests.

2. A list of all the databases that the State has produced or will produce in this litigation.

3. Confirmation as to whether plaintiff has produced complete databases for (a) MMIS pharmacy claims data, (b) OOnQuest data, and (c) TEDS data.

4. Confirmation as to whether plaintiff is producing databases, reports, or other information from the PMP program or its precursor, the OSTAR database, as well as confirmation that plaintiff believes it is prohibited by law from producing that data to defendants.

5. A date by which plaintiff will commit to producing all other databases it intends to produce, including but not limited to (a) Health Choice Data, (b) state medical examiner data, and (c) MMIS medical claims data.

6. A date by which plaintiff will commit to producing all materials—such as data dictionaries, field definition tables, and user guides—associated with all fields (including non-produced fields) in the databases it has produced or will produce.

7. Answers to the questions we posed in our letters of May 9, May 25, June 4, and September 10, Mr. Coats's email of August 17 to Mike Burrage, and my email of December 3.

8. The State's position on an extension to defendants' relevant expert disclosure deadlines based on the State's delay in producing the necessary data in a usable format.

We ask the you address these issues promptly so that we do not have to seek the Court's involvement to obtain answers to these inquiries.

- Steve

EXHIBIT 2

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER, ATTORNEY GENERAL
OF OKLAHOMA,
Plaintiff,
vs. No. CJ-2017-816

PURDUE PHARMA, L.P.,
PURDUE PHARMA, INC.,
THE PURDUE FREDERICK COMPANY;
TEVA PHARMACEUTICALS USA, INC.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA, INC.;
n/k/a JANSSEN PHARMACEUTICALS, INC.;
ALLERGAN, PLC, f/k/a ACTAVIS PLC,
f/k/a ACTAVIS, INC., f/k/a WATSON
PHARMACEUTICALS, INC.;
WATSON LABORATORIES, INC.;
ACTAVIS LLC; and
ACTAVIS PHARMA, INC.;
f/k/a WATSON PHARMA, INC.;

Defendants.
_____/

VIDEOTAPED DEPOSITION OF JESSICA McGUIRE
TAKEN ON BEHALF OF THE DEFENDANTS
ON DECEMBER 13, 2018, BEGINNING AT 9:12 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Greg Brown
REPORTED BY: Jane McConnell, CSR RPR CMR CRR

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(Appearances continued on next page.)

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back to the program that you mentioned from 1990 to 2006, and you told us that you did some work to prepare with respect to that program; is that right?

A Correct.

Q Can you describe that program for us.

A So this program was called OSTAR, and that was for the original prescription monitoring program, and it's the electronic prescription monitoring program, I should specify, in the State of Oklahoma, and it was put into law right before that in '89 it was the law, and it was for Schedule II, Schedule II drugs for dispensation. So it only had the Schedule IIs for the State.

Q So what data was included in that program? Was it a database?

A Yes.

Q What data was included in the database?

A So it included the NDC number of the drug, the quantity dispensed, the date it was filled, the NCPDP number, so that's a pharmacy number, the DEA number for the prescriber, a customer ID number like a driver license number or some type of ID number, the patient first name, the patient last name, the patient address, like street address, the patient state, the patient Zip Code, the patient date of

birth and also the dispenser DEA number, and if I didn't include it, the prescriber ID, DEA number.

Q What are you looking at for that information?

A This is the breakdown of the dispensation guide over time, the variables that were included.

Q That's in your binder?

A Correct.

Q That's marked as Deposition Exhibit 2?

A Correct.

MR. SNAPP: Winn, did you bring any copies of Deposition Exhibit 2 for us? Were you able to get copies made during the break?

MR. CUTLER: I'm working on it now. I do not have copies for you at the moment.

MR. SNAPP: Thanks.

Q (BY MR. SNAPP) So this data that was included in the OSTAR database, who entered that data?

A Pharmacies.

Q When did they enter the data?

A They had to enter -- originally it was 30 days, if I'm not mistaken, when it was first created and then moved to within 24 hours.

Q So that 30 days, initially it was 30 days

writing.

Q When did Oklahoma start seeing a trend for potential diversion or abuse of Schedule II drugs?

MR. CUTLER: Object to the form. Object to the scope.

A I don't actually know when law enforcement -- that's one of the reasons it was just law enforcement, but I don't know when law enforcement started to see a trend for Schedule II issues.

I don't know when that -- but I do know that because law enforcement had started seeing some of this, that they decided to pass legislation to implement and say we're working on that in the late '90s, sorry, excuse me, late '80s, that legislation.

Q (BY MR. SNAPP) Just so I'm clear, prior to 2015 prescribers were not required to check the Oklahoma prescription monitoring program database when prescribing a Schedule II drug; is that right?

A Correct.

MR. CUTLER: Object to the form.

Q (BY MR. SNAPP) The current vendor for the State's PMP program is APPRISS Health; is that right?

A Correct.
Q When did the state start using APPRISS?
A 2016.
Q How did the State choose APPRISS as the vendor?
A They went through a procurement process.
Q Do you know how the costs of using APPRISS as a vendor compared to the in-house program that the State was running from 19 -- I'm sorry, 2006 to 2016?
MR. CUTLER: Object to the form.
A I do not know.
Q (BY MR. SNAPP) So you don't know today sitting here whether switching to the APPRISS system costs more or less than running the in-house program did from 2006 to 2016?
MR. CUTLER: Object to the form.
A I do not know if it cost more or less than the in-house system because the in-house system had fewer features. So it's almost not comparable when you look at that.
And also the actual system for the in-house system was a lot of staff time since it was constantly having someone fix and update and maintain the system.

Q So I was just trying to understand some of the data on here. This was data from the fourth quarter of 2017; is that right?

A Correct.

Q And do you have similar reports available for other quarters?

A Yes.

Q How far back does that data go?

A It would just go into fourth quarter, about the fourth quarter of 2016.

Q When you started using the APPRISS system?

A Correct.

Q If we wanted to run similar reports for the time period before that, would we be able to do that?

MR. CUTLER: Object to the form.

Q (BY MR. SNAPP) Would you be able to do that?

MR. CUTLER: Same objection.

A Yes.

Q (BY MR. SNAPP) So one of the lines on here is number of clinical alerts sent by category five by five by 30. What does that mean?

A That is if you have the clinical alert on doctor shoppers set to a threshold of five doctors,

EXHIBIT 3

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.,
MIKE HUNTER, ATTORNEY GENERAL
OF OKLAHOMA,
Plaintiff,

vs. No. CJ-2017-816
VOLUME I

PURDUE PHARMA, L.P.,
PURDUE PHARMA, INC.,
THE PURDUE FREDERICK COMPANY;
TEVA PHARMACEUTICALS USA, INC.;
CEPHALON, INC.;
JOHNSON & JOHNSON;
JANSSEN PHARMACEUTICALS, INC.;
ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., n/k/a
JANSSEN PHARMACEUTICALS, INC.;
JANSSEN PHARMACEUTICA, INC.;
n/k/a JANSSEN PHARMACEUTICALS, INC.;
ALLERGAN, PLC, f/k/a ACTAVIS PLC,
f/k/a ACTAVIS, INC., f/k/a WATSON
PHARMACEUTICALS, INC.;
WATSON LABORATORIES, INC.;
ACTAVIS LLC; and
ACTAVIS PHARMA, INC.;
f/k/a WATSON PHARMA, INC.;

Defendants.
_____/

VIDEOTAPED DEPOSITION
OF JESSICA HAWKINS 30(b)(6)
TAKEN ON BEHALF OF THE DEFENDANTS
ON OCTOBER 25, 2018, BEGINNING AT 8:57 A.M.
IN OKLAHOMA CITY, OKLAHOMA

VIDEOTAPED BY: Gabe Pack
REPORTED BY: Jane McConnell, CSR RPR CMR CRR

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ALSO PRESENT: Terri White
Commissioner of Mental Health
and Substance Abuse Services

A -- ever used the PMP? No.

Q (BY MR. CHEFFO) Have you ever presented on information from the PMP?

MS. BALDWIN: Objection.

A Yes.

Q (BY MR. CHEFFO) So you have some level of expertise in the information that's available, right?

MS. BALDWIN: Objection.

A So in terms of -- it would depend on what aspect of the PMP you're asking about in terms of my personal expertise.

Q (BY MR. CHEFFO) Why don't you tell me what expertise you have in connection with the PMP.

A Okay.

MS. BALDWIN: Objection.

A So in 2013 one of the actions that the State took to address the opioid addiction epidemic was to put in place legislation related to the PMP that explicitly allows that data to be shared with two agencies, the State Department of Health, the State Department of Mental Health and Substance Abuse Services.

The purpose of that bill was to allow that information to be used for analysis to look at

public health trends, to develop reports so that agencies such as ours and public health, the State Health Department could develop interventions designed around problems that they're seeing within the PMP, other sort of issues that may arise within that system.

So after that particular piece of legislation went into effect, our agency began to receive PMP data. And sometime after that, the data analysts within our agency and the State Department of Health have worked collaboratively to analyze pieces of that data, what I'll call the aggregate level, not at the patient level, at the aggregate level in order to identify what we call something like epidemiological hot spots where we can identify problems, potential problems or risk.

So my involvement with that project has been to participate on a series of committees or work groups that helps advise on the PMP and also coordinate joint projects between the State Department of Health, our agency, the Bureau of Narcotics in order to do those types of analyses and reports.

So by law, I'm not allowed to query the PMP, for example. So when you asked me if I used